

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

November 18, 2010

A meeting of the Board of Environmental Protection was held on Thursday, November 18, 2010, at The Elks Lodge, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Paul Paydos and Lissa Widoff

Board members Elizabeth Ehrenfeld, Matt Scott and Frank Woodard were absent.

Staff: Carolyn Wheeler, Bureau of Air Quality
Deb Avalone-King, Bureau of Air Quality
Mike Karagiannes, Bureau of Air Quality
Eric Kennedy, Bureau of Air Quality
Marc Cone, Bureau of Air Quality
Jeff Crawford, Bureau of Air Quality
Fred Hagen, Bureau of Air Quality

Others: Beth Nagusky, Acting Commissioner
Cynthia S. Bertocci, BEP Executive Analyst
Jan McClintock, Assistant Attorney General
Terry Dawson, BEP Administrative Assistant

(Meeting adjourned at approximately 12:30 p.m.)

The Board convened three public hearings as follows:

Public Hearing at 9:00 a.m. In The Matter Of:

CHAPTER 100, DEFINITIONS REGULATIONS / TAILORING RULE
AMENDMENTS

Public Hearing at 9:30 a.m. In The Matter Of:

CHAPTER 425, ASBESTOS MANAGEMENT REGULATIONS / AMENDMENTS

Public Hearing at 10:30 a.m. In The Matter Of:

CHAPTER 118, GASOLINE DISPENSING FACILITIES VAPOR CONTROL –
AMENDMENTS

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Acting Commissioner Nagusky reported the following:

Staff Day: Ms. Nagusky extended a personal invitation to Board members encouraging them to attend the Department's Staff Day on December 14th.

Administrative Transition: The Department has been working on a transition document for Governor-Elect LePage. This document includes summaries of the duties and responsibilities of the Department and the Board and includes information related to pending matters on the Board's docket. The goal of this document is to provide the incoming administration with an overview of the Department and its activities.

Biomass Neutrality: Earlier today during the public hearing for Chapter 100, the issue of biomass carbon neutrality was mentioned. The Department supports the position that biomass fuel should be considered differently than coal and petroleum fuel products with respect to carbon emissions. Acting Commissioner Nagusky noted for the Board that the Department has been working with the U.S. Environmental Protection Agency to develop a resolution regarding the treatment of biomass with respect to greenhouse gas emissions.

Low Carbon Fuel Standard: Governor Baldacci signed onto an agreement to develop a standard for low carbon fuel targeted to reduce greenhouse gas emissions from transportation and home heating fuels. Currently, NESCAUM is doing an economic analysis of the various options.

Awards: Recently, Governor Baldacci recognized two DEP employees by selecting them to receive the Manager of the Year award and Employee of the Year award for DEP.

- Ginger McMullan, Environmental Specialist III with the BRWM received the Employee of the Year award for her vital contributions to the clean-up efforts associated with the Gulf spill. Ginger supplied invaluable technical support through on-location modeling and mapping of oil spill data which provided critical input for prioritizing clean up and containment resources.

- Barbara Parker, Division Director of the Department's Response Services Unit, received the Manager of the Year award for her role in providing key support to Florida's incident command and for managing Maine's assistance to the federal government during the Gulf of Mexico oil spill.

Highland Lake: Following a 13-year effort, Highland Lake was recently removed from the state and federal lists of impaired lakes. This has been a partnership of the Maine Departments of Transportation and Environmental Protection, the U.S. EPA, Casco Bay Estuary Partnership, and the Cumberland County Soil & Water Conservation District which were able to fund and operate the Highland Lake Youth Conservation Corps. The Corps helped install conservation measures that reduced and stopped much of the non-point source pollution runoff from entering the lake, thus allowing the lake's condition to stabilize.

QUESTIONS:

Board member P. Andrews Nixon asked if other states were supporting the idea of biomass neutrality.

Ms. Nagusky replied that in addition to Maine, New Hampshire, California and Washington State were leading the initiative. Ms. Nagusky further explained that other states may act in opposition. Additionally, there is peer reviewed science on both sides of the issue. Forestry practices and the timing of harvests are central to the debate. Ms. Nagusky noted that EPA has treated biomass fuel differently than fossil fuels in other contexts.

B. COMMENTS FROM THE BEP CHAIR: None

C. EXECUTIVE ANALYST COMMENTS: None

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING: Reviewed.

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS:

The Board voted (6-0-1-3) to approve consent agenda item 1 BEP minutes July 1, 2010 as presented.

The vote was taken pursuant to 38 M.R.S. A. §341-D.

Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, and Lissa Widoff voted to support the motion. Board member Paul Paydos abstained. Board members Elizabeth Ehrenfeld, Matt Scott and Frank Woodard were absent.

The Board voted (6-0-1-3) to approve consent agenda item 2 BEP minutes October 7, 2010 as presented.

The vote was taken pursuant to 38 M.R.S. A. §341-D.

Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, and Paul Paydos voted to support the motion. Board member Lissa Widoff abstained. Board members Elizabeth Ehrenfeld, Matt Scott and Frank Woodard were absent.

The Board voted (5-0-2-3) to approve consent agenda item 3 BEP minutes October 21, 2010 as presented.

The vote was taken pursuant to 38 M.R.S. A. §341-D.

Board members M. Wing Goodale, Richard Gould, Susan M. Lessard, P. Andrews Nixon, and Paul Paydos voted to support the motion. Board members Don Guimond and Lissa Widoff abstained. Board members Elizabeth Ehrenfeld, Matt Scott and Frank Woodard were absent.

The Board voted (7-0-0-3) to approve consent agenda items 4 and 5 as presented.

The vote was taken pursuant to 38 M.R.S. A. §341-D(6).

Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Paul Paydos, and Lissa Widoff voted to support the motion. Board members Elizabeth Ehrenfeld, Matt Scott and Frank Woodard were absent.

4. SACO AUTO HOLDINGS – FLMM, LLC d/b/a PRIME FORD LINCOLN MERCURY, Saco – Administrative Consent Agreement (BAQ)
5. DOMTAR INDUSTRIES INC., Baileyville – Administrative Consent Agreement (BAQ)

II. Regular Agenda

1. CHAPTER 117, SOURCE SURVEILLANCE – EMISSIONS MONITORING – REPEAL AND REPLACE (post to public hearing)

Staff: Deb Avalone-King, Bureau of Air Quality

The Board voted (7-0-0-3) on a motion to post the repeal and replacement of Chapter 117 Source Surveillance, Emissions Monitoring to public hearing. Proposed amendments to this regulation seek to update, clarify and standardize procedural protocols for continuous emissions monitoring (CEM) consistent with federal regulation. The rule also updates the standards enabling owners and operators to better analyze and quantify emissions using the newer monitoring technology. Additionally, new language is being proposed that would require installation of replacement continuous emission monitors that are inoperable for more than 10% of the time over four calendar quarters. The vote established a hearing date of December 16, 2010 and a deadline for submission of written public comment of December 27, 2010.

The vote was taken pursuant to 38 M.R.S.A. §341-D(1-B), § 585-A and 40 CFR Parts 60, 61, 63 and 75.

Board members M. Wing Goodale, Richard Gould, Don Guimond, Susan M. Lessard, P. Andrews Nixon, Paul Paydos, and Lissa Widoff voted to support the motion. Board members Elizabeth Ehrenfeld, Matt Scott and Frank Woodard were absent.

2. VERSO BUCKSPORT, LLC – DEPARTMENT APPLICATION #A-22-77-4-A //
OFFSETS FOR MAJOR MODIFICATION (briefing)

Staff: Marc Cone, Bureau of Air Quality

Verso Bucksport has applied for a permit to modify the limits for biomass feed rate to Boiler 8 from 26 tons/hr to 80 tons/hr. This proposed modification will result in an increase of Volatile Organic Compound (VOC) emissions of 94 tons/yr which requires Verso Bucksport to obtain offset credits.

The applicant proposes to upgrade Boiler 8 to enable it to increase the biomass firing rate and add a new 25 MW turbine for steam generation which will allow the facility to discontinue use of coal and tire derived fuel. To obtain the needed VOC offset credits the applicant will permanently shut down Boiler 7 and use the eliminated NOx emissions from that unit to satisfy the VOC offsets needed for the modifications to Boiler 8 fuel mix. The Department certified that the emissions from Boiler 7 shutdown can be used to offset the upgraded Boiler 8 VOC emissions.

The draft proposed Department Order was noticed for a 30-day public comment period which ends on Monday, November 22, 2010.

3. LEGISLATIVE REPORT / SUMMARY OF ACTIVITIES (initial discussion)

Staff: Cynthia Bertocci, Board Executive Analyst

Next Regular Meeting – Thursday, December 2, 2010 – Civic Center, Augusta